

(1) loss of or damage to the heavy equipment that is caused by an unexplained disappearance or abandonment of the heavy equipment;

(2) damage that is intentionally caused by the customer; or

(3) damage that results from the customer's wilful or wanton misconduct.

*Sec. 93.007. RELATIONSHIP TO INSURANCE. A heavy equipment loss damage waiver is not insurance.*

*Sec. 93.008. CIVIL PENALTY. A merchant that violates this chapter is liable for a civil penalty in an amount of not less than \$500 or more than \$1,000 for each act of violation.*

*Sec. 93.009. INJUNCTIVE RELIEF. A person injured or threatened with injury by a violation of this chapter may seek injunctive relief against the person committing or threatening to commit the violation.*

*Sec. 93.010. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF. The attorney general or a county or district attorney may bring an action in the name of the state for a civil penalty under Section 93.008, injunctive relief under Section 93.009, or both.*

SECTION 2. The change in law made by this Act applies only to a rental agreement entered into on or after the effective date of this Act. A rental agreement entered into before the effective date of this Act is governed by the law in effect when the rental agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

Passed by the House on April 16, 2015: Yeas 145, Nays 1, 2 present, not voting;  
passed by the Senate on May 20, 2015: Yeas 31, Nays 0.

Approved June 10, 2015.

Effective September 1, 2015.

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**PROVISIONAL AUTHORITY FOR CERTAIN INDIVIDUAL  
INSURANCE LICENSE APPLICANTS TO ACT AS INSURANCE  
AGENTS; AUTHORIZING A FEE; REQUIRING AN  
OCCUPATIONAL PROVISIONAL PERMIT; ADDING  
PROVISIONS THAT MAY BE SUBJECT TO A CRIMINAL  
PENALTY**

**CHAPTER 404**

H.B. No. 2145

**AN ACT**

**relating to provisional authority for certain individual insurance license applicants to act as insurance agents; authorizing a fee; requiring an occupational provisional permit; adding provisions that may be subject to a criminal penalty.**

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 4001, Insurance Code, is amended by adding Subchapter H to read as follows:

**SUBCHAPTER H. PROVISIONAL PERMIT**

*Sec. 4001.351. APPLICABILITY. This subchapter applies only to an applicant for a license as an agent under:*

*(1) Subchapters B and E, Chapter 4051; and*

*(2) Subchapters B, D, and E, Chapter 4054.*

*Sec. 4001.352. AUTHORITY TO ISSUE PROVISIONAL PERMIT. The department*

may, in conjunction with a license application under Section 4001.102, issue a provisional permit to an applicant who is being considered for appointment as an agent by another agent, an insurer, or a health maintenance organization.

**Sec. 4001.353. APPLICATION FOR AND ISSUANCE OF PROVISIONAL PERMIT.**

(a) The department may issue a provisional permit under this subchapter on receipt of:

- (1) a written application for a provisional permit;
- (2) a properly completed license application, nonrefundable fee, and each other item required for a license under this chapter and Subchapter B or E, Chapter 4051, or Subchapter B, D, or E, Chapter 4054, as applicable;
- (3) the nonrefundable fee in an amount authorized by Subsection (c); and
- (4) a certificate signed by the appointing agent, insurer, or health maintenance organization stating that:

(A) the applicant completed the training, if any, and passed the examination required for the issuance of the license for which the application is submitted;

(B) the appointing agent, insurer, or health maintenance organization completed a background check on the applicant that shows that the applicant has not been convicted of:

(i) a felony; or

(ii) an act that requires the applicant to receive written consent under 18 U.S.C. Section 1033 to engage in the business of insurance;

(C) the applicant has not responded affirmatively to any question on the license application that indicates the applicant has a criminal conviction or has been involved in an administrative action that may disqualify the applicant from receiving a license; and

(D) the appointing agent, insurer, or health maintenance organization will supervise the work of the applicant.

(b) An applicant is not qualified to receive a provisional permit if the applicant has not taken and passed the examination required for the issuance of the permanent license for which the applicant applied under Section 4001.102.

(c) The nonrefundable fee described by Subsection (a) shall be set by the department in an amount that:

- (1) is reasonable and necessary to implement this subchapter; and
- (2) may not exceed the amount of the fee required for an application for a permanent license.

**Sec. 4001.354. AUTHORITY TO ACT AS AGENT UNDER PROVISIONAL PERMIT.**

(a) An applicant may proceed to act as an agent if:

(1) a provisional permit is not received from the department before the eighth day after the date the application, nonrefundable fee, and other items required under Section 4001.353(a) are delivered or mailed to the department; and

(2) the applicant or appointing agent, insurer, or health maintenance organization has not been notified that the application for the permit is incomplete or is or may be denied.

(b) An applicant may act as an agent only for the appointing agent, insurer, or health maintenance organization except that an appointing insurer may include appointments for one or more affiliated insurers that are part of the same insurance holding company group.

**Sec. 4001.355. TERM OF PROVISIONAL PERMIT.** (a) Except as provided by Subsection (b), a provisional permit expires on the earlier of:

- (1) the 90th day after the date the permit is issued; or
- (2) the date a license is issued or the license application is denied.

(b) *If the license, or a notice that the license is denied, is not received from the department on or before the 90th day after the date the application, nonrefundable fee, and other items required under Section 4001.353(a) are delivered or mailed to the department, the authority of the applicant to act as an agent under this subchapter automatically extends until the earlier of the date the license is issued or the license application is denied or the 90th day after the expiration of the 90-day period under Subsection (a).*

**Sec. 4001.356. NOTIFICATION REGARDING LICENSE.** (a) *The department may notify the applicant or appointing agent, insurer, or health maintenance organization that the license application is incomplete or is or may be denied at any time before the issuance or denial of a license.*

(b) *An applicant who receives a notice under Subsection (a) shall immediately cease acting as an agent under this subchapter. An appointing agent, insurer, or health maintenance organization that receives notice under Subsection (a) shall immediately notify the applicant of the notice.*

(c) *An applicant acting as an agent under this subchapter before receiving a notice under Subsection (a), if applicable, is not engaged in the unauthorized business of insurance and any transaction entered into by the applicant before receiving the notice, if applicable, is presumed lawful.*

(d) *A notification under this section applies only to a provisional permit, and the department shall continue to process an application for a license unless the license has been denied.*

**Sec. 4001.357. DENIAL OR REVOCATION OF LICENSE.** *If the applicant's license application is denied or the applicant's license is revoked, an applicant is subject to Section 4005.105 with respect to an application for a provisional permit under this subchapter.*

**Sec. 4001.358. COMPLIANCE WITH OTHER LAW.** (a) *A provisional permit holder who is acting under the authority of that permit is subject to all provisions of this code regulating the solicitation and sale of insurance that relate to the type of permanent license for which the provisional permit holder applied.*

(b) *A provisional permit holder that applied for a life and annuity license must comply with Chapter 1114 with respect to the replacement of life insurance policies and annuities.*

(c) *A person who holds a permanent license may not circumvent or attempt to circumvent the intent of this section by acting for or with a provisional permit holder.*

**Sec. 4001.359. SUPERVISORY RESPONSIBILITY.** *An appointing agent, insurer, or health maintenance organization that allows a permit holder to act as an agent under a provisional permit has supervisory responsibility over the permit holder.*

**SECTION 2.** The change in law made by this Act applies only to an applicant who files a license application on or after the effective date of this Act.

**SECTION 3.** This Act takes effect September 1, 2015.

Passed by the House on April 16, 2015: Yeas 144, Nays 2, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 2145 on May 20, 2015: Yeas 142, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 18, 2015: Yeas 29, Nays 1.

Approved June 10, 2015.

Effective September 1, 2015.